

E-Filing

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9 UNITED STATES MAGISTRATE COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 SAN FRANCISCO DIVISION

12 UNITED STATES OF AMERICA,)	No. 3 06 70060 MEJ
13 Plaintiff,)	
14 v.)	[PROPOSED] ORDER AND
15 MICHAEL ANTHONY KENNELLY,)	STIPULATION FOR CONTINUANCE
16 Defendant.)	FROM OCTOBER 10, 2006 TO
)	NOVEMBER 27, 2006 AND
)	EXCLUDING TIME FROM THE SPEEDY
)	TRIAL ACT CALCULATION (18 U.S.C. §
)	3161(h)(8)(A)) AND WAIVING TIME
)	LIMITS UNDER RULE 5.1

17
18 With the agreement of the parties, and with the consent of the defendant, the Court enters
19 this order scheduling a status conference on December 13, 2006 at 9:30A.M. before the duty
20 magistrate judge, and documenting the defendant's waiver of the preliminary hearing date under
21 Federal Rule of Criminal Procedure 5.1 and the exclusion of time under the Speedy Trial Act, 18
22 U.S.C. § 3161(b), from November 27, 2006 to December 13, 2006. The parties agree, and the
23 Court finds and holds, as follows:

24 1. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C. §
25 3161(h)(8)(B)(iv) to provide continuity of counsel and reasonable time necessary for effective
26 preparation, taking into account the exercise of due diligence.

27 2. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for
28 preliminary hearing.

3. Counsel for the defense believes that postponing the preliminary hearing is in his client's best interest, and that it is not in his client's interest for the United States to indict the case during the normal 10-day timeline established in Rule 5.1. Counsel for the defense has specifically considered the need for additional time to continue consultations with Pretrial Services on the question of his client's eligibility for pretrial diversion.

4. The Court finds that, taking into the account the public interest in the prompt disposition of criminal cases, these grounds are good cause for extending the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances, the Court finds that the ends of justice served by excluding the period from November 27, 2006 to December 13, 2006 outweigh the best interest of the public and the defendant in a speedy trial. § 3161(h)(8)(A).

5. Accordingly, and with the consent of the defendant, the Court (1) sets a status conference before the duty magistrate judge on December 13, 2006 at 9:30A.M., and (2) orders that the period from November 27, 2006 to December 13, 2006 be excluded from the time period for preliminary hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

IT IS SO STIPULATED:

DATED: 12/13/06

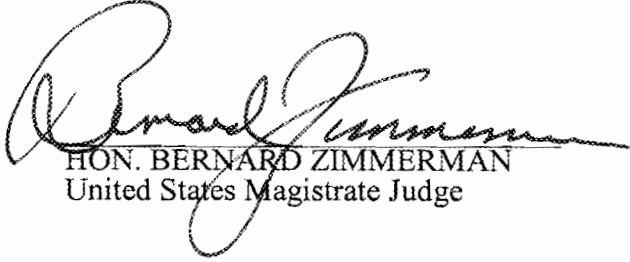
/S/
RON TYLER
Attorney for Defendant

DATED: 12/13/06

/S/
BLAKE D. STAMM
Assistant United States Attorney

IT IS SO ORDERED.

DATED: 17 Dec 06


HON. BERNARD ZIMMERMAN
United States Magistrate Judge